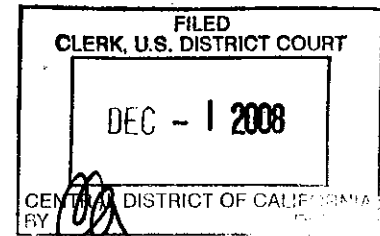


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11 BOSTON SCIENTIFIC CORPORATION



12 UNITED STATES DISTRICT COURT  
13 CENTRAL DISTRICT OF CALIFORNIA

14 HEIDI HEINEMAN-GUTA,

15 Plaintiff,

16 vs.

17 BOSTON SCIENTIFIC  
18 CORPORATION, a Delaware  
19 corporation; and DOES 1 through 25,  
20 inclusive,

21 Defendant.

Case No. SACV08-00605 CJC (JWJx)

Assigned to Hon. Cormac J. Carney

**[PROPOSED] PROTECTIVE  
ORDER**

**NOTE CHANGES MADE BY THE COURT**

Complaint Filed: April 22, 2008  
Trial Date: November 3, 2009

1 The following procedures shall govern the production, use, and disclosure of  
2 confidential documents and other information in the above-captioned action:

3 1. Any party may designate as "Confidential" those documents produced  
4 during this action and information provided in interrogatory responses or in  
5 testimony by a party or a witness who is or was employed by Boston Scientific  
6 which the party considers to contain or constitute information that (a) is not in the  
7 public domain and (2) consists of either: (a) financial data; or (b) sales or marketing  
8 data; or (c) product information not publicly distributed; or (d) technical data; or (e)  
9 compensation, investigatory, disciplinary or other private personnel information  
10 concerning present and former employees of Boston Scientific; or (f) information  
11 pertaining to the finances or economic condition of any party; or (g) medical,  
12 emotional, financial, or mental condition of Heidi Heineman-Guta.

13 2. Materials consisting of documents or interrogatory responses may be  
14 designated as "Confidential" by a party by so marking the materials as of the time  
15 the responses and/or copies of requested materials are provided to any other party  
16 requesting them. Documents or interrogatory responses so designated shall be  
17 treated in the manner prescribed in paragraph 5.

18 3. If, during the course of a deposition, information is elicited that a party  
19 believes to be Confidential, counsel shall designate the information as  
20 "Confidential" on the record. In the alternative, a party may make this designation  
21 within 30 days after the party's counsel receives the deposition transcript.  
22 Information contained in a transcript or exhibits so designated shall be treated in the  
23 manner prescribed in paragraph 5.

24 4. If any party produces any confidential information without timely  
25 labeling or marking or otherwise designating it as such in accordance with the  
26 provisions of this Protective Order, the producing party may give written notice to  
27 the receiving party that the document or thing produced is deemed confidential and  
28 should be treated as such in accordance with the provisions of this Protective Order.

1 The receiving party must treat such documents and things in the manner prescribed  
2 in paragraph 5 from the date such notice is received. Disclosure, prior to the receipt  
3 of such notice of the confidential status of such information, to persons not  
4 authorized to receive such information shall not be deemed a violation of this  
5 Protective Order.

6 5. All materials designated as "Confidential" shall be used only for the  
7 purposes of this litigation and may be given, shown, made available to, or  
8 communicated in any way only to parties, counsel of record for the parties,  
9 counsel's employees, the Court (including persons employed by the Court and court  
10 reporters), non-party deponents pursuant to paragraph 6, third party consultants and  
11 independent experts to whom it is necessary that the materials be shown for  
12 purposes of this litigation, and third parties jointly selected by the plaintiff and  
13 defendants for the purpose of conducting any form of alternate dispute resolution in  
14 this litigation. Nothing herein shall impose any restriction on the use or disclosure  
15 by a party of its own documents or information (as opposed to "Confidential"  
16 documents or information produced by another party).

17 6. During a deposition a non-party deponent may be shown, and  
18 examined about, materials designated as "Confidential" if the provisions of  
19 paragraph 7 are complied with. Non-party deponents shall not retain or copy such  
20 materials or portions of the transcripts of their depositions that contain confidential  
21 material unless they comply with the provisions of paragraph 7.

22 7. Each person permitted by the parties or their counsel to have access to  
23 documents marked "Confidential" (other than the parties or their counsel or  
24 counsel's employees) shall, prior to being afforded such access, be shown this  
25 Stipulation and Order and shall sign an agreement, in the form attached hereto as  
26 Attachment "A," stating that he or she has read and understands its terms and shall  
27 abide by them. In this regard, Defendant Boston Scientific will provide permission  
28 to all current Boston Scientific employees who are non-party deponents to agree to

1 the Protective Order and to sign the agreement, Attachment "A," if documents  
2 designated "Confidential" are to be addressed at such employee's deposition.  
3 Defendants, furthermore, will not discourage any Boston Scientific employee from  
4 signing Attachment "A," and will not interfere with plaintiff's counsel's reasonable  
5 efforts to procure such signature. A file shall be maintained by the attorneys of  
6 record of all written agreements signed by persons to whom such documents have  
7 been given, which file shall, upon request, be available for inspection and copying  
8 by counsel subject to objection on the basis of attorney-client privilege and attorney  
9 work product.

10 8. In the event that any party intends to file one or more documents  
11 marked as "Confidential" with the Court or to file any deposition testimony that has  
12 been identified as confidential with the Court or disclose confidential information in  
13 a brief filed with the Court, the party desiring to file such information shall give  
14 advanced notice to the other party. Thereafter, the parties will promptly meet and  
15 confer in an attempt to have the information filed with the Court without the need  
16 for it to be under seal, such as agreeing to remove the confidentiality restrictions for  
17 the purposes of filing the information with the Court or redacting confidential  
18 information prior to its filing with the Court. If the parties cannot reach an  
19 agreement, then the party who seeks to file confidential information can request that  
20 the Court file the confidential information under seal.

21 9. Subject to public policy, and further court order, nothing shall be filed  
22 under seal, and the court shall not be required to take any action, without separate  
23 prior order by the Judge before whom the hearing or proceeding will take place,  
24 after application by the moving party with appropriate notice to opposing counsel.

25 10. The Parties shall comply with Local Rule 79-5 of the Central District  
26 of California in the event that they lodge or file any documents covered by this  
27 order with the Court.

28 11. This Protective Order shall not be construed as waiving any right to

1 assert a bona fide claim of privilege or any other objection as to the discoverability  
2 and/or admissibility of any information.

3 12. This Protective Order shall be without prejudice to any party's right to  
4 bring a motion at any time, upon proper notice, to determine the propriety of a  
5 claim that certain documents or information constitute "Confidential" information.  
6 Before the filing of any such motion, the parties shall meet and confer in good faith  
7 to attempt to resolve any disagreement.

8 13. The terms of this Protective Order shall remain in full force and effect  
9 until further order of this Court or a court of competent jurisdiction, and shall not  
10 cease to be in effect because this litigation is finally adjudicated. Upon termination  
11 of this action, all documents and data designated "Confidential" pursuant to this  
12 Order, including all copies of such documents and all summaries of data contained  
13 in such documents, and compilations of any nature whatsoever derived from such  
14 documents, shall be returned to counsel for the party which produced them upon  
15 written request of the producing party.

16 *The court and its personnel shall not be bound by*  
17 *the terms of this order.*  
18 IT IS SO ORDERED.

19 Date: December 4, 2008

20   
21 United States Magistrate Judge  
22 Hon. Jeffrey Johnson  
23  
24  
25  
26  
27  
28

ATTACHMENT "A"  
CONFIDENTIALITY AGREEMENT

I, \_\_\_\_\_, hereby acknowledge that:

1. I have read the Protective Order entered in the action presently pending in the United States District Court, Central District of California entitled Heidi Heineman-Guta v. Boston Scientific Corporation, Case No. SACV08-00605 CJC (JWJx);

2. I understand the terms of the Protective Order;

3. I agree, upon threat of penalty of contempt and other civil remedies, to be bound by its terms, and;

4. I irrevocably submit my person to the jurisdiction of the United States District Court, Central District of California, for the limited purpose of securing compliance with the terms and conditions of the Protective Order.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Telephone Number

**PROOF OF SERVICE**

*Heidi Heineman-Guta v. Boston Scientific Corporation*  
USDC CASE NO.SACV08—00605 CJC (JWJx)

I am a resident of the State of California, County of Orange; I am over the age of eighteen years and not a party to the within action; my business address is 5 Park Plaza, Suite 1750, Irvine, California 92614.

On November 6, 2008, I served on the interested parties in this action the within document(s) entitled:

**[PROPOSED] PROTECTIVE ORDER**

☒ **BY E-FILE** – I caused such documents to be transmitted by e-file with the Clerk of the Court by using the CM/ECF system, which will send a notice of electronic filing to the following:

David G. Spivak, Esq.  
 The Spivak Law Firm  
 9454 Wilshire Boulevard, Suite 303  
 Beverly Hills, CA 90212  
 Tel: (310) 499-4730  
 Fax: (310) 499-4739  
 email: [david@spivaklaw.com](mailto:david@spivaklaw.com)

*Attorneys for Plaintiff Heidi  
 Heineman-Guta*

☐ **STATE:** I declare under penalty of perjury, under the laws of the State of California, that the above is true and correct.

☒ **FEDERAL:** I declare that I am employed in the office of a member of the Bar of this Court at whose direction this service was made.

Executed on November 6, 2008, at Irvine, California.

/s/ Jojo Nghiem  
**Jojo Nghiem**

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